

Judge Bailey, cont.

Indianapolis Bar Association’s Bar Leader Series; in 2009, he was designated an ASTAR Science and Technology Fellow and is a past Board Member of the Indiana Judges Association.

Currently, Judge Bailey is a member of the Supreme Court Committee on Rules of Practice and Procedure and has served as Chair of the Indiana State Bar Association’s Appellate Practice Section.

Also, he is in his second term as a Board Member of the Indiana University McKinney School of Law Alumni Association. Additionally, Judge Bailey serves as an adjunct professor at the University of Indianapolis.

Judge Bailey was retained on the Court of Appeals in 2000 and 2010.

His wife is a professor; the couple has two post college-age children.

Judge Bradford, cont.

Judges Criminal Policy Committee and the Board of Directors of the Indiana State Judicial Conference.

He is a Senior Distinguished Fellow of the Indianapolis Bar Association and has taught ICLEF seminars on trial practice for more than 10 years.

From 2005 to 2007, Judge Bradford hosted “Off the Bench with Judge Cale Bradford,” a legal commentary program on Marion County’s government access network. He also served on the Judicial Technology and Automation Committee (JTAC), helping to draft the state judiciary’s policies on technology and electronic case management.

Judge Bradford currently serves as an adjunct instructor in forensic science and the law at Indiana University Purdue University Indianapolis.

Judge Bradford is a former director of Indianapolis’s John P. Craine House, a residential alternative to incarceration for women offenders with pre-school-aged children.

Judge Bradford regularly attends St. Luke’s United Methodist Church. He and his wife, a full-day kindergarten teacher, have five children.

Attorneys for the Parties

For the Appellant

Suzy St. John has worked in the Appellate Division of the Marion County Public Defender Agency full-time since graduating from Indiana University School of Law in Indianapolis in 2009. She was enrolled in the law school’s first Appellate Clinic course. She also competed in two national moot court competitions, receiving high honors for oral argument in 2009.

Suzy has represented more than 150 indigent clients on direct appeal. She has argued many times before the Court of Appeals of Indiana.

Suzy is a dog lover and Hoosier basketball fan who currently resides in Indianapolis.

For the Appellee

Ellen H. Meilaender is a Deputy Attorney General in the Criminal Appeals Section of the Office of the Indiana Attorney General.

She grew up in Oberlin, OH, and received her B.A. in 1997 from Wittenberg University with a major in political science and a minor in history. She earned her J.D. in 2000 from the Indiana University-Bloomington School of Law, where she was an Article Editor on the Indiana Law Journal.

She joined the Attorney General’s Office in 2000 and has been a supervising attorney in the Criminal Appeals Section since 2004. She has written more than 1,000 criminal appellate briefs and coauthored an amicus brief cited by the United States Supreme Court in Oregon v. Ice, 555 U.S. 160 (2009). She has presented oral argument more than 60 times before the Indiana Supreme Court and Court of Appeals.

Judge Baker, cont.

In 2011 he joined the Board of Trustees of Garrett-Evangelical Theological Seminary in Evanston, IL, where he serves on the board’s Academic Affairs committee.

Judge Baker was retained by election in 1992, 2002 and 2012. He and his wife have five children and – so far – nine grandchildren.

After oral argument

After oral argument, the judges confer to decide the outcome. One, called the writing judge, drafts an opinion for the others’ review. Final language may involve several drafts and significant collaboration among the judges.

Generally, opinions will affirm or reverse lower court rulings in whole. But some affirm in part, some reverse in part, and some do both. Not infrequently, the opinion instructs the trial court about the next appropriate course of action.

Many opinions are unanimous, although non-unanimous decisions (2-1) are not uncommon. Dissenting judges usually express their views in a separate opinion that becomes part of the permanent record of the case.

(Historically, the ideas contained in dissents have sometimes been adopted as the law of the land – over time – on a particular issue.)

Judges sometimes write separate, concurring opinions that emphasize different points of law or facts than the main opinion.

No rules or laws govern how fast the Court of Appeals must issue an opinion. But the court strives to decide cases within four months of receiving all briefs, transcripts and other records.

Once issued, all opinions are published on www.courts.in.gov and maintained in the permanent records of the Clerk of Appellate Courts.

Parties can appeal decisions of the Court of Appeals to the Indiana Supreme Court by filing a petition to transfer within a prescribed number of days. But transfer is not automatic; the Supreme Court can grant or deny transfer with or without giving a reason.

If the petition is denied, the Appeals Court decision stands.

SYNOPSIS

The Law: The Fourth Amendment to the United States Constitution and Article 1, Section 11 of the Indiana Constitution both provide, in part: “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated[.]”

To protect this right, police officers generally must obtain a warrant before conducting a search. However, there are some exceptions to the warrant rule. For example, when a car is taken into police custody, the police may be permitted to take inventory of the car’s contents without first obtaining a warrant.

In this case, the Court must decide whether a police officer’s warrantless search of a car was unconstitutional.

The Facts: In May 2013, Lamont Wilford was driving his sister’s car in Indianapolis when a police officer noticed damage to the car’s windshield and back end. Due to the car’s condition, the officer pulled him over. Wilford stopped and parked the car in a Planet Fitness parking lot.

The officer learned that Wilford’s license was currently suspended and that Wilford also had a prior license suspension, so he placed Wilford under arrest. The officer then decided to impound the car.

Before it was towed away, and without obtaining a warrant, the police searched the car and discovered a stolen gun in the front seat center console. Wilford told the police that he received the gun in trade for a puppy and though the gun was “clean,” meaning not stolen.

Wilford was charged with Driving While Suspended with a Prior Suspension and Carrying a Handgun without a License, both Class A misdemeanors.

At trial, Wilford argued that the police conducted an illegal, warrantless search of the car. He asked the court to exclude the gun from evidence because generally, evidence found during an illegal search cannot be admitted at trial.

The State argued that the police did not need a warrant because the officer found the gun while doing a valid inventory search of the car prior to towing.

Over Wilford’s objection, the trial court admitted the gun. Wilford was found guilty

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Court of Appeals of Indiana

*Hearing oral argument at
New Palestine High School
Wednesday, April 29, 2015 @ 1 p.m.*



Wilford v. State
49A02-1408-CR-534

*On Appeal from Marion Superior Court
Deborah J. Shook, Commissioner*

Synopsis, cont.

of both charges and sentenced to 365 days in jail, with 357 of those days suspended to probation.

On appeal, Wilford challenges his Hand-gun conviction and asks this Court to decide whether the trial court erred in admitting the gun because it was obtained during an unconstitutional search.

Justice, Quoted

The complete independence of the courts of justice is peculiarly essential in a limited Constitution.

- **Alexander Hamilton, Federalist 78**

It is emphatically the province and duty of the Judicial Department to say what the law is. Those who apply the rule to particular cases must, of necessity, expound and interpret that rule. If two laws conflict with each other, the Courts must decide on the operation of each.

- **Chief Justice John Marshall**

Whatever disagreement there may be as to the scope of the phrase "due process of law" there can be no doubt that it embraces the fundamental conception of a fair trial, with opportunity to be heard.

- **Justice Oliver Wendell Holmes, Jr.**

Law matters, because it keeps us safe, because it protects our most fundamental rights and freedoms, and because it is the foundation of our democracy.

- **Justice Elena Kagan**

Restriction on free thought and free speech is the most dangerous of all subversions. It is the one un-American act that could most easily defeat us.

- **Justice Thurgood Marshall**

It is the spirit and not the form of law that keeps justice alive.

- **Chief Justice Earl Warren**

The day you see a camera come into our courtroom, it's going to roll over my dead body.

- **Justice David Souter**



Glimpses of Indiana History

Every docket tells a story

Indiana Appellate Court Reports, Vols. 1, 2, and 3, include the complete written opinions of several hundred cases decided by the Court of Appeals in its first two terms. Naturally, the legal issues before the court were many and varied. But the underlying facts, taken together, paint a vivid picture of Indiana's economy and society circa 1891 – the same year James Naismith invented basketball.

Agriculture was an economic mainstay, and even city residents maintained livestock. In *The Noblesville Gas and Improvement Company v. Teter*, the court affirmed damages of \$60 against the gas company for the death of Teter's cow after it fell into an open gas line trench.

The opinion notes that by county and city ordinance, "cows were permitted to run at large within the city (of Noblesville) within the day time."

Railroads were frequent litigants. *Vols. 1, 2, and 3* record 34 railroad-related appeals, many involving damages to livestock, but also other issues. In a disputed-fare case from Greene County, the court ruled for the railroad but admonished the company "if unnecessary force was used in expelling the appellee from the train."

Vol. 1 also includes two cases involving **The Western Union Telegraph Co.** One of them, *Western Union v. Trumbull*, cited an 1885 law that anticipates current legal and policy arguments about **Internet neutrality**.

The relevant passage of the law said that telegraph companies "shall in no manner discriminate in rates charged, or words or figures charged for, or manner or conditions of service between any of its patrons, but shall serve individuals, corporations and other telegraphic companies with impartiality."

Then as now, fraught **domestic relations** occupied a significant share of

the docket.

In *Story v. Story*, the court affirmed judgment against a father who'd been sued by his daughter for nonpayment of \$3 a week for house and farm work.

Marshall et al v. Bell involved a father's promissory note for support and maintenance of a "bastard child."

And in *Adams v. Main*, the court affirmed a trial court's judgment that the appellant had alienated the affections of the appellee's wife, even without proof of adultery. Such proof was not required, per the Appeals Court.

Contract disputes comprised a large part of the docket, too, and some of them include telling details about prevailing wages and prices.

In *Greene v. McIntire et al*, the court affirmed judgment against New York City grain merchants who had contracted to buy 20,000 bushels of "grade No. 2 red wheat" from a Knox County farmer. Price: \$14,891, or 74 cents per bushel. (By comparison, in December 2013, March 2014 wheat deliveries were trading at \$6.39/bushel at the Chicago Board of Trade.)

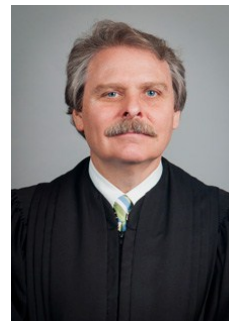
Orme v. Cooper, a Floyd County case, reported the value of 571 pounds of harness leather as \$114.20, or 20 cents per pound.

Mr. Trumbull, the appellant in the *Western Union* case cited above, paid 25 cents for his telegram.

Another case put the value of a Warren County house, lot, furnishings, and various materials and repairs at \$531.85.

Vols. 1, 2, and 3 include just **18 criminal appeals** (all others assigned to the Supreme Court), many involving crimes of vice such as gambling, liquor violations and prostitution (referred to in one case as "a certain house of ill fame" in Valparaiso).

The court affirmed the trial court's decision 13 times, or 72 percent.



**The Honorable
L. Mark Bailey**

Decatur County

Lloyd Mark Bailey was raised on the family farm in Decatur County. He was educated in Indiana, earning a B.A. from the University of Indianapolis (1978); a J.D. from Indiana University McKinney School of Law (1982); and an M.B.A. from Indiana Wesleyan University (1999). He also completed the graduate program for Indiana Judges. Judge Bailey was appointed to the Indiana Court of Appeals by Governor Frank O'Bannon in 1998, after having served as judge of the Decatur County and Decatur Superior Courts.

During his legal career, Judge Bailey has served public interest and professional organizations in various capacities.

He was the first Chairperson of the Indiana Pro Bono Commission, having been awarded the Indiana Bar Foundation's Pro Bono Publico Award and the 2002 Randall Shepard Award for his pro bono contributions. His writings include: "A New Generation for Pro Bono," "Pro Bono Participation Preserves Justice," and "An Invitation to Become Part of the Solution," all published in the *Indiana Lawyer*.

Judge Bailey also chaired the Local Coordinating Council of the Governor's Task Force for a Drug-Free Indiana and the Judicial Conference Alternative Dispute Resolution Committee. Additionally, he has served on the Judicial Education Committee of the Judicial Conference of Indiana.

In 2004, Judge Bailey and his First District colleagues received the Indiana Bar Foundation Law-Related Education Award for their commitment to bringing oral arguments into community settings.

In February of 2006, he served as the Distinguished Jurist in Residence at Stetson University College of Law; in 2007-08, he was the Moderator of the

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Today's Panel of Judges



**The Honorable
John G. Baker**

Monroe County

John G. Baker was named to the Court of Appeals in 1989, which makes him the longest-serving member on the current Court. He has served as Presiding Judge of the Court's First District, which covers all of southern Indiana, and as Chief Judge of the Court from 2007-2010.

Judge Baker grew up along the Ohio River in Aurora, IN, but attended high school at Culver Military Academy in northern Indiana. He studied history at Indiana University-Bloomington, and later received his law degree from Indiana University School of Law-Bloomington.

He practiced law in Monroe County for many years before joining the Monroe County bench as first a county and later a Superior Court Judge. Diligently, he handled more than 15,000 cases in 13 ½ years on Monroe County benches, and has written more than 4,000 majority opinions for the Court of Appeals.

Judge Baker is greatly interested in the history, structure and organization of Indiana's judicial branch of government. He regards Indiana judges not as remote figures who conduct abstract arguments, but as people fully engaged in the life of the law and their communities.

He has taught in college and law school and is active in local, state and national bar associations. In 2013, Judge Baker retired after 33 years of teaching at the School of Public and Environmental Affairs, Indiana University-Bloomington. He continues to teach during the Spring semester at the McKinney School of Law.

Judge Baker's many community activities include his church, the YMCA and the Boy Scouts (where he attained Eagle Scout status as a youth).

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**The Honorable
Cale J. Bradford**

Marion County

Cale J. Bradford was appointed to the Court of Appeals by Governor Mitch Daniels and took his seat on August 1, 2007.

Prior to his elevation to the Court of Appeals, Judge Bradford served for more than 10 years as Judge of the Marion Superior Court, seven years in the criminal division and three in the civil division. He was twice elected presiding judge by his colleagues.

During this tenure, Judge Bradford chaired the Marion County Criminal Justice Planning Council, a group of local elected and appointed officials who recommended ways to improve the county's response to criminal justice problems, including jail overcrowding, staffing, and budget issues. His efforts led to the end of 30 years of federal oversight of the Marion County Jail and to security improvements at the county's Juvenile Detention Center.

Before joining the bench, Judge Bradford served in the Marion County Prosecutor's Office for two years, overseeing a staff of more than 100 attorneys. For five years, he was an Assistant United States Attorney for the Southern District of Indiana, prosecuting major felony drug trafficking cases. He engaged in the private practice of law from 1986 to 1991, and served as both a deputy prosecutor and public defender during his career.

A native of Indianapolis, Judge Bradford received a B.A. in labor relations and personnel management from Indiana University-Bloomington in 1982 and his J.D. from Indiana University-Indianapolis in 1986. He is the Court of Appeals' liaison to the Indiana Judges Criminal Instructions Committee, which provides guidance to judges on jury instructions in criminal cases, and a former member of both the Indiana

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